

Guardianship and Conservatorship Program Regulations

501 SCOPE, JURISDICTION AND DEFINITIONS

501.1 PURPOSE OF DISCIPLINARY REGULATIONS

1. To assure that Certified Professional Guardian and Conservators (CPGCs) meet and maintain minimum professional standards of practice, which are adopted as regulations under General Rule 23 – Rule for Certifying Professional Guardian and Conservators.
2. To establish a process for the Certified Professional Guardianship and Conservatorship Board (Board) to review grievances of alleged violations of statutes, fiduciary duties, court orders, standards of practice, rules, regulations, any requirement governing the conduct of professional guardian and conservators and any other authority applicable to professional guardian and conservators. The disciplinary procedures for failure to comply with certification requirements are included in the Certification Maintenance and Continuing Education Regulations.
3. To set out the due process protections and other procedures that allow the professional guardian and conservator and the public to be protected.
4. To ensure meaningful access to justice services and promote public trust and confidence in the courts.

501.2 JURISDICTION

Any certified professional guardian and conservator (CPGC) permitted to engage in the provision of guardianship or conservatorship services in this state is subject to these Disciplinary Regulations. Jurisdiction exists regardless of the CPGC's residency.

501.3 GROUNDS FOR DISCIPLINARY ACTION

These rules govern the procedure by which a certified professional guardian and conservator may be subjected to disciplinary sanctions or actions for violation of the Certified Professional Guardian and Conservator Standards of Practice or other regulations adopted by the Board.

A professional guardian and conservator may be subject to disciplinary action for any of the following:

1. Violation of or noncompliance with the acceptance of appointment, an oath, applicable violations of statutes, fiduciary duties, court orders, standards of practice, rules, regulations, and any requirement governing the conduct of professional guardian and conservators.
2. Commission of any act that constitutes a crime involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, whether or not a conviction results.
3. Failure to perform any duty one is obligated to perform as a professional guardian and conservator.
4. Permitting the name of a guardian and conservator certified by the Certified Professional Guardianship and Conservatorship Board to be used by an uncertified person or agency.
5. Misrepresentation or concealment of a material fact made in the application for certification.
6. Suspension, revocation of certification, or other disciplinary sanction taken by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or conservatorship or interaction with an individual who is unable to receive and evaluate information or make or communicate decisions or other vulnerable person.
7. Hiring, maintaining an office with, having on a Certified Agency's Board of Directors, or working for or together with any person whose certification has been revoked or suspended as a disciplinary sanction, if the professional guardian and conservator has knowledge of such revocation or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.
8. Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.
9. Making a false statement under oath.
10. Conduct demonstrating unfitness to work as a professional guardian or conservator, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.

11. Working as a professional guardian or conservator while on inactive status.
12. Failing to cooperate during the course of an investigation as required by the Board's regulations.
13. Incompetence in the performance of the duties of a guardian or conservator.
14. Failure to appear for a scheduled court proceeding without good cause.
15. Failure to comply with the terms of a signed Agreement Regarding Discipline.

501.4 DEFINITIONS

Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:

1. **“Advisory Letter”** is a non-disciplinary letter to notify a professional guardian and conservator that:
 - A. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional guardian and conservator; or
 - B. The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or
 - C. While a certified professional guardian and conservator has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Standards of Practice Committee believes that repetition of the activities that led to the investigation may result in further Standards of Practice Committee action against a CPGC.
2. **“Agreement Regarding Discipline”** is a written settlement agreement approved by the professional guardian and conservator and the Board of a disciplinary matter against a professional guardian and conservator. The final agreement,

approved by the parties, is a finding of misconduct, is a sanction and is subject to public disclosure.

3. **“AOC”** means staff of the Administrative Office of the Courts.
4. **“Board”** means the Certified Professional Guardianship and Conservatorship Board.
5. **“Chair”** when used alone means the Chair of the Certified Professional Guardianship and Conservatorship Board.
6. **“Contempt of a Board Proceeding”** means:
 - A. Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a hearing or other Board proceedings;
 - B. Disobedience of any lawful judgment, decree, order, or process of the Certified Professional Guardianship and Conservatorship Board;
 - C. Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or
 - D. Refusal, without lawful authority, to produce a record, document, or other object.
7. **“Complaint”** means the formal document, as described in DR 508.2, filed by the Board with the AOC to initiate a contested hearing before a Hearing Officer for a factual hearing on the issue of whether the professional guardian and conservator’s conduct provides grounds for the imposition of disciplinary sanctions by the Board. In a complaint, the Board describes how the professional guardian and conservator allegedly violated an applicable statute, fiduciary duty, court order, standard of practice, rule, regulation, or other authority. The Board must approve the filing of a complaint.
8. **“Court”** unless otherwise specified, means the Supreme Court of Washington.

9. **“CPGC or CPGCA”** when used alone means a Certified Professional Guardian and Conservator or Certified Professional Guardian and Conservator Agency.
10. **“Decertification”** of a professional guardian and conservator or agency occurs when the Board or the Supreme Court revokes the certification of a professional guardian and conservator or agency for any reason.
11. **“Deliberative Records”** are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.
12. **“Designated CPGC”** means the certified professional guardian and conservator working for an agency who has the final decision-making authority for individuals subject to guardianship and/or conservatorship or their property, finances and estate on behalf of the agency. The designated CPGC is responsible for the actions of the agency(ies) for which they serve as designated CPGC.
13. **“Disciplinary Records”** are the records maintained by the Washington State Administrative Office of the Courts (AOC) of any disciplinary review, sanction, or other action imposed by the Board on the professional guardian and conservator, which shall include the reason for the Board’s action. The AOC shall maintain such records as defined by records retention schedules of the judicial branch and the AOC.
14. **“Disciplinary Action”** encompasses the process described by these disciplinary regulations.
15. **“Disciplinary Counsel”** the Office of the Attorney General serves as disciplinary counsel for complaints, or when otherwise requested by AOC or the Board.
16. **“Grievance”** is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian and conservator’s conduct under the statutes, fiduciary duties, court orders, standards of practice, rules, regulations, any requirement governing the conduct of professional guardian or conservators and any other authority applicable to professional guardian or conservators. The grievance must include a description of the conduct of the professional guardian and conservator that the grievant alleges violates a statute, fiduciary duty, court order, standard of practice, rule, regulation, or other authority applicable to professional guardian and conservators, including the approximate date(s) of the conduct. If the grievant is

unable to submit a grievance in written form due to a disability or inability to communicate in written language, it may be communicated orally to AOC staff. AOC staff shall offer to assist the grievant by providing, in written form, the circumstances underlying the grievance, and shall offer to submit what the grievant communicates as the grievance

17. **“Grievant”** means the person or entity who files a grievance against a CPGC.
18. **“Hearing Officer”** means the person appointed by the Board to conduct a disciplinary hearing and render a decision.
19. **“Investigative Records”** are records related to an investigation pursuant to GR 23 and these disciplinary regulations, into the conduct of the professional guardian and conservator, prior to the imposition of any disciplinary sanction or dismissal.
20. **“Motion”** means a written request to the Standards of Practice Committee, Board, Hearing Officer or Supreme Court to issue a ruling or order.
21. **“Party”** means respondent CPGC and the Board.
22. **“Punitive Sanction”** means a sanction imposed to punish.
23. **“Remedial Sanction”** means a sanction imposed for the purpose of assurance performance when a failure to perform consists of the omission or refusal to perform an act that is in the person's power to perform.
24. **“Resignation”** is the act or instance of resigning something, surrendering; the formal notification of resigning.
25. **“Respondent”** means a CPGC or CPGC agency and a designated CPGC against whom a grievance is filed.
26. **“Revoked”** or **“Revocation”** means a professional guardian and conservator's certification is cancelled by the Board or the Washington State Supreme Court pursuant to the procedures set forth in these disciplinary regulations or any other regulations of the Board, as a result of the professional guardian and conservator's failure to comply with any statutes, fiduciary duties, court orders, standards of practice, rules, regulations, any requirement governing the conduct

of professional guardian or conservators and any other authority applicable to professional guardian or conservators. The Board must specify whether the CPGC is eligible to apply for certification with the AOC guardian and conservator program at a future date.

27. **“Standard of Practice”** means a model of established practice as promulgated by the Certified Professional Guardianship and Conservatorship Board.
28. **“Summary Judgment”** is a judgment rendered by the court or Hearing Officer prior to a verdict because no material issue of fact exists and one party or the other is entitled to a judgment ascertained through the use of statutes, rules, court decisions, and interpretation of legal principles.
29. **“Suspension”** of a professional guardian and conservator occurs when the Board or the Supreme Court orders that the certification of a professional guardian and conservator or agency be temporarily cancelled for a specified period of time. A suspended professional guardian and conservator or agency may not act as a certified professional guardian or conservator for any person during the period of suspension.
30. **“To File”** means submitting a written document, exhibit, or other information to the AOC regarding a grievance which will be included in the disciplinary record.
31. **“Words of Authority”**
 - A. “May” means “has discretion to,” “has a right to,” or “is permitted to”.
 - B. “Must” and “shall” mean “is required to”.
 - C. “Should” means recommended but not required.
32. **“Voluntary Resign (Surrender)”** means a process where a certified professional guardian and conservator voluntarily decides to discontinue practice in the profession and surrenders his or her certification pursuant to regulations adopted by the Board.
33. **“Voluntary Surrender in Lieu of Discipline”** means a process where a certified professional guardian and conservator surrenders certification with a statement of charges for dismissal.

501.5 NO STATUTE OF LIMITATION

No statute of limitation or other time limitation restricts filing a grievance or bringing a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.